



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## RESULTS OF MERRIMACK ZONING BOARD OF ADJUSTMENT

TUESDAY, JULY 29, 2020

**Board members present:** Richard Conescu, Kathleen Stroud, Rod Buckley and Alternate Drew Duffy

**Board members absent:** Lynn Christensen, Patrick Dwyer and Alternate Ben Niles

**Staff present:** Robert Price, Planning & Zoning Administrator and Casey Wolfe, Assistant Planner

### 1. Call to Order

*Richard Conescu called the meeting to order at 7:10 p.m.*

### 2. Roll Call

*Richard Conescu read the preamble, and then read the procedures and processes for the virtual meeting.*

*Richard Conescu appointed Drew Duffy to sit for Patrick Dwyer.*

- 3. Governors Hill Corp. (petitioner) and Richard & Marilyn Brown & Governors Hill Corp (owners)-** Appeal of Administrative Decision that determined pre-existing nonconforming lots of record are required to conform to current zoning requirements upon the modification of the lot following a lot line adjustment even though such adjustments would result in no change to the lots area, depth, or frontage. The parcels are located at 31 & 33 Constance Street in the R-1 (Residential, by soils) District. Tax Map 6D, Lots 137 and 136. Case # ZBA 2020-19. **This item is continued from the June 24, 2020 meeting.**

*Withdrawn by petitioner.*

- 4. RCL Realty, LLC (petitioner/owner) –** Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 42,996 square feet of lot area whereas 80,000 square feet is required, and 186.77 feet of depth whereas 200 feet is required. The parcel is located at 21 Elizabeth Drive in the R-2 (Residential) District. Tax Map 3A, Lot 010. Case #ZBA 2020-10.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Kathy Stroud and seconded by Rod Buckley.***

- 5. RCL Realty, LLC (petitioner/owner) –** Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 41,268 square feet of lot area whereas

80,000 square feet is required, 182.89 feet of depth whereas 200 feet is required, and 50 feet of frontage whereas 200 feet is required. The parcel is located at 15 Elizabeth Drive in the R-2 (Residential) District. Tax Map 3A, Lot 013. Case # ZBA 2020-11.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Rod Buckley and seconded by Kathy Stroud.***

6. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 50,174 square feet of lot area whereas 80,000 square feet is required, 155.68 feet of depth whereas 200 feet is required, and 59.19 feet of frontage whereas 200 feet is required. The parcel is located at 11 Elizabeth Drive in the R-2 (Residential) District. Tax Map 3A, Lot 014. Case # ZBA 2020-12.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Kathy Stroud and seconded by Rod Buckley.***

7. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 49,524 square feet of lot area whereas 80,000 square feet is required, and 25 feet of frontage whereas 200 feet is required. The parcel is located at 4 Squires Drive in the R-2 (Residential) District. Tax Map 3A, Lot 015. Case # ZBA 2020-13.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Rod Buckley and seconded by Kathy Stroud.***

8. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 48,258 square feet of lot area whereas 100,000 square feet is required, and 185 feet of depth whereas 300 feet is required. The parcel is located at 14 Elizabeth Drive in the R-1 (Residential, by soils) District. Tax Map 3A, Lot 025. Case # ZBA 2020-14.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Rod Buckley and seconded by Drew Duffy.***

9. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 61,913 square feet of lot area whereas 100,000 square feet is required, and 185 feet of depth whereas 300 feet is required. The parcel is located at 18 Elizabeth Drive in the R-1 (Residential, by soils) District. Tax Map 3A, Lot 026. Case # ZBA 2020-15.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Kathy Stroud and seconded by Drew Duffy.***

10. **RCL Realty, LLC (petitioner/owner)** – Appeal of Administrative Decision that determined pre-existing nonconforming lots of record are required to conform to current zoning requirements upon the modification of the lot following a lot line adjustment even though such adjustments would result in each lot becoming less nonconforming than presently constituted. The parcels are located at Elizabeth Drive, Charles Road and Squires Drive in the

R-1 (Residential by soils) and R-2 (Residential) Districts. Tax Map 3A, Lots 010, 013, 014, 015, 025, and 026. Case # ZBA 2020-16.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item to August 26, 2020, on a motion made by Drew Duffy and seconded by Rod Buckley.***

- 11. As Life Goes On, LLC (petitioner) and Laura Benson (owner)** - Variance under Section 2.02.9(b) (6) of the Zoning Ordinance to permit an assisted living group home on a lot with 1.37 acres whereas 3 acres is required. The parcel is located at 585 Daniel Webster Highway in the C-1 (Limited Commercial) and R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 6D-1, Lot 046. Case # ZBA 2020-22.

*Petitioner was represented by: Greg Michael and Brett Allard, Bernstein, Shur, Sawyer & Nelson, P.A.*

*There was no public comment.*

***The Board voted 4-0-0, on a roll call vote, to grant the variance, with conditions, on a motion made by Kathy Stroud and seconded by Drew Duffy.***

- 12. As Life Goes On, LLC (petitioner) and Laura Benson (owner)** - Appeal of Administrative Decision that determined an assisted living group home is not exempt from the three-acre minimum lot area requirement of Section 2.02.9(b) (6) of the Zoning Ordinance. The parcel is located at 585 Daniel Webster Highway in the C-1 (Limited Commercial) and R-4 (Residential), Aquifer Conservation, and Elderly Housing Overlay Districts. Tax Map 6D-1, Lot 046. Case # ZBA 2020-23.

***At the petitioner's request, the Board voted 4-0-0, on a roll call vote, to continue this item until August 26, 2020, pending completion of the 30-day appeal period for the granting of the variance for ZBA Case #2020-22 with no appeals being filed, on a motion made by Rod Buckley and seconded by Kathy Stroud.***

- 13. Lora Philp (applicant/owner)** – Variance under Section 3.05 of the Zoning Ordinance to permit the razing and reconstruction of a deck 9 feet from the side property line whereas 15 feet is required. The parcel is located at 83 Wilson Hill Road in the R-1 (Residential, by map) and Aquifer Conservation Districts. Tax Map 4B, Lot 123. Case # ZBA 2020-24.

*Petitioner was represented by: Lora Philp, petitioner/owner*

*There was no public comment.*

***The Board voted 4-0-0, on a roll call vote, to grant the variance, with conditions, on a motion made by Rod Buckley and seconded by Kathy Stroud.***

- 14. Discussion/possible action regarding other items of concern**

*None.*

- 15. Approval of Minutes – June 24, 2020**

***The Board voted 3-0-1, on a roll call vote, to approve the minutes of June 24, 2020 as submitted, on a motion made by Rod Buckley and seconded by Drew Duffy. Rod Buckley abstained.***

#### **16. Adjourn**

***The Board voted 4-0-0, on a roll call vote, to adjourn at 8:02 p.m. on a motion made by Drew Duffy and seconded by Kathy Stroud.***